

FIRST REGULAR SESSION

HOUSE BILL NO. 765

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRILL (Sponsor) AND CHAPPELLE-NADAL (Co-sponsor).

1651L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto eleven new sections relating to the wireless telephone consumer protection act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto eleven new sections, to
2 be known as sections 407.2000, 407.2002, 407.2004, 407.2006, 407.2008, 407.2010, 407.2012,
3 407.2014, 407.2016, 407.2018, and 407.2020, to read as follows:

407.2000. 1. Sections 407.2000 to 407.2020 shall be known and may be cited as the
2 **"Missouri Wireless Telephone Consumer Protection Act".**

3 **2. As used in sections 407.2000 to 407.2020, the following words and phrases shall**
4 **mean:**

5 **(1) "Customer", an individual consumer purchasing wireless**
6 **telecommunications service, or a business or corporate entity making a bulk purchase of**
7 **wireless telecommunications service for use by its employees;**

8 **(2) "Government-mandated charges and taxes", any taxes, fees, and other charges**
9 **that a wireless carrier is legally required to collect directly from consumers and to remit**
10 **to federal, state, or local governments, or to third parties authorized by such governments,**
11 **for the administration of government programs. "Government-mandated charges and**
12 **taxes" does not include discretionary charges authorized, but not required by, government**
13 **action;**

14 **(3) "Wireless carrier", a provider of wireless telecommunications service;**

15 **(4) "Wireless telecommunications service", commercial mobile radio service as**
16 **defined in 47 CFR Part 20.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

407.2002. 1. Wireless carriers providing wireless telecommunications service, other than prepaid per minute service that does not require a minimum term agreement from the customer, in the state shall:

(1) Provide the customer, at the time of sale, with a coverage map showing where service is generally available and that identifies areas where any domestic roaming or additional charges would apply to the customer's service;

(2) Make coverage maps showing where service is generally available to prospective and existing customers at any location where the wireless carrier's wireless telecommunications service is offered for sale and make those maps available electronically at the carrier's web site. Such maps shall contain the maximum practicable level of granularity and shall be updated quarterly. Such maps shall be made available upon the request of the customer;

(3) Clearly and conspicuously disclose at the time of sale the price for the service being purchased by the customer, including the monthly access fee or base charge, the amount of any activation or initiation fee, any charge for domestic roaming, any charge for domestic long distance, any charge for exceeding the number of minutes or usage included in any allowance, and any other charges collected and retained by the carrier and disclose a good-faith estimate of the amount or range of all applicable government-mandated or authorized charges and taxes;

(4) Clearly and conspicuously disclose to the customer at the time of sale in written materials:

(a) That the price is not guaranteed to remain the same for the minimum term of the contract if a contract provision allows the wireless carrier to change the price of the service during the minimum term; and

(b) Any early termination fee that applies if service is terminated during the minimum term; and

(5) Prior to the execution of a contract for wireless telephone service, provide the customer the terms of the contract, and after execution of the contract provide the customer with a copy of the writing or writings constituting the contract, at the time of sale and thereafter upon the customer's request.

2. Within one hundred eighty days following the effective date of sections 407.2000 to 407.2020, the attorney general shall adopt rules and regulations requiring that any publication, including any publication on the Internet, of a wireless carrier, concerning the terms of its plans or contracts for wireless telecommunications service shall set forth in a plain and conspicuous manner the following:

36 (1) Information on charges, including the originating location of the call, monthly
37 base charge, per-minute charges for minutes not included in the plan, and the method of
38 calculating minutes charged;

39 (2) Information on the minutes included in the plan, including allowable minutes
40 during daytime on weekdays, allowable minutes during nights and weekends, or any other
41 differing charges for long-distance, roaming, incoming, and directory assistance;

42 (3) Information on plan or contract terms, including length of contract, early or
43 other termination fees, trial periods, and start-up fees;

44 (4) Information on taxes to be collected by the provider for, and paid to, a state,
45 local, or other governmental agency;

46 (5) Information on surcharges imposed by the provider for the costs of compliance
47 with regulations or for other purposes; and

48 (6) Any other information the attorney general considers appropriate to ensure that
49 customers of wireless telecommunications service are fully informed of the terms of the
50 plan or contract.

51 3. Wireless carriers shall provide the information required by this section to a
52 customer prior to entering into any contract with a customer for wireless
53 telecommunications service.

54 4. With regard to any early termination fee provisions or provisions allowing the
55 wireless carrier to change the price of the service during the minimum contract term, the
56 wireless carrier shall obtain a specific acknowledgment from the customer that the
57 customer has read and understands the provisions.

 407.2004. 1. A wireless carrier shall provide bills for wireless telecommunications
2 services that are clearly organized and clearly describe in plain language the products and
3 services for which charges are imposed, and that conform to format standards established
4 by the attorney general.

5 2. Roaming or off-network charges shall be itemized on the customer's bill within
6 sixty days of the call being placed, and such roaming or off-network charges shall identify
7 the date and originating location of the call.

8 3. Upon the request of a customer, a wireless carrier shall provide an itemized bill
9 to the customer at no cost to the customer.

 407.2006. All bills for wireless telecommunications services shall list
2 government-mandated charges and taxes in a section of the bill separate from the section
3 or sections listing the price and any other charges for the wireless telecommunications
4 service. The wireless carrier shall include a brief, easy-to-understand description of each
5 charge included in the bill. The wireless carrier shall not represent, expressly or by

6 implication, that discretionary cost recovery fees or charges are government-mandated
7 charges and taxes.

407.2008. 1. A wireless carrier shall not include on a customer's bill a charge for
2 goods or services that the carrier bills on behalf of a third party unless the wireless carrier
3 has obtained the customer's prior express authorization to include those charges on the
4 customer's bill issued by the wireless carrier.

5 2. If a customer of a wireless carrier disputes any third-party charge appearing on
6 that customer's wireless bill, the customer shall not be obligated to pay the disputed charge
7 until the wireless carrier provides evidence of the customer's prior express authorization
8 to include such charge. Evidence of the customer's prior express authorization shall be
9 produced to the customer within sixty calendar days after the customer notifies the wireless
10 carrier that the charge is disputed. A customer shall be permitted to dispute any charges
11 that a wireless carrier bills on behalf of a third party for up to six months after the charge
12 appears on the customer's wireless bill. If the wireless carrier cannot produce evidence
13 that the customer authorized the third-party charge, the wireless carrier shall remove the
14 charge from the customer's wireless bill and credit the customer for the unauthorized
15 third-party charges incurred during the previous six months.

16 3. A wireless carrier meets the prior express authorization requirements of this
17 section only if it obtains or receives authorization from the customer containing clear,
18 unambiguous, and separate authorizations for each third-party good or service to be
19 included on the customer's bill.

20 4. Nothing in this section restricts the right of a wireless carrier to seek to recover
21 from a third party unauthorized charges credited to the customer by the wireless carrier.

407.2010. 1. If a customer is offered, accepts, or requests a good, service, or
2 promotion or changes the customer's wireless service plan in any manner, and this good,
3 service, promotion, or change will result in the extension of the minimum contract term or
4 create a new contract with a minimum term, the wireless carrier shall disclose to the
5 customer at the point of sale or acceptance that the requested good, service, promotion, or
6 change will result in a contract extension or creation of a new contract with a minimum
7 term, and shall further disclose the length of the extension or new term.

8 2. If the customer and a representative of the carrier are personally present at the
9 point of sale or acceptance, the wireless provider shall also in connection with the new
10 good, service, promotion, or change obtain the customer's signed consent in an independent
11 document. The independent document shall only include the following terms, which shall
12 be clearly and conspicuously disclosed:

13 (1) That the new good, service, promotion, or change will result in an extension or
14 renewal of the customer's contract;

15 (2) The new contract start and end dates; and

16 (3) That failure to complete the new contract term may result in early termination
17 fees and, if so, the amount of the fees.

18 3. If the customer's consent is obtained via the Internet, the wireless provider shall
19 disclose the terms listed in subdivisions (1) to (3) of subsection 2 of this section. The
20 customer shall provide a valid electronic signature showing that the wireless provider has
21 disclosed and the customer has agreed to the extension or renewal of the contract. An
22 electronic record shall be available upon request to the customer until the new contract
23 term expires.

24 4. If the customer's consent is obtained orally, the wireless provider shall clearly
25 disclose the terms listed in subdivisions (1) to (3) of subsection 2 of this section and the
26 customer's consent to each term shall be recorded and retained by the provider and be
27 made available upon request to the customer until the new contract term expires.

28 5. Within ten days after a customer's contract has been extended or renewed, the
29 wireless service provider shall notify the customer in an independent writing that the
30 contract has been extended or renewed. The independent writing shall only include the
31 following terms, which shall be clearly and conspicuously disclosed:

32 (1) That the new good, service, promotion, or change will result in an extension or
33 renewal of the customer's contract;

34 (2) The new contract start and end dates; and

35 (3) That failure to complete the new contract term may result in early termination
36 fees and, if so, the amount of the fees.

37 6. Failure of the provider to make any of the disclosures or to obtain any of the
38 consents required in this section voids any contract extension covered by this section.

2 407.2012. A wireless carrier, or any direct or indirect affiliate or agent of a
3 provider, providing the name and wireless telephone number information of a customer
4 for inclusion in any directory of any form, or selling, leasing, licensing, or sharing the
5 contents of any directory database, or any portion or segment thereof, shall not include the
6 wireless telephone number information of any customer without first obtaining the express
7 consent of that customer.

2 407.2014. Sections 407.2000 to 407.2020 do not create a private right of action, or
3 form the predicate for a right of action under any other state law, or create a liability that
4 would not exist absent of sections 407.2000 to 407.2020.

2 **407.2016.** Any action brought under sections 407.2000 to 407.2020 shall be
commenced within six months of the alleged violation.

2 **407.2018.** A violation of sections 407.2000 to 407.2020 shall be an unlawful practice
under section 407.020.

2 **407.2020.** The attorney general shall promulgate rules to implement the provisions
of sections 407.2000 to 407.2020. Any rule or portion of a rule, as that term is defined in
3 section 536.010, RSMo, that is created under the authority delegated in this section shall
4 become effective only if it complies with and is subject to all of the provisions of chapter
5 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
6 RSMo, are nonseverable and if any of the powers vested with the general assembly under
7 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
8 are subsequently held unconstitutional, then the grant of rulemaking authority and any
9 rule proposed or adopted after August 28, 2009, shall be invalid and void.

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